

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

FILED

SEP 20 2012

WILLIAM B. GUTHRIE
Clerk, U.S. District Court
By Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. CR 12 - 074 - KEW

CHARLES McFADDEN,

Defendant.

INFORMATION [M]

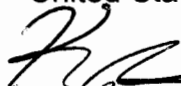
The United States Attorney charges:

COUNT ONE

[16 U.S.C. § 668(a) -- Possession of a Bald Eagle]

Between September 2011 and March 2012, in the Eastern District of Oklahoma, **CHARLES LEE McFADDEN**, defendant herein, did knowingly, or with wanton disregard for the consequences of his act, possessed a bald eagle commonly known as the American eagle or any golden eagle, alive or dead, in violation of Title 16, United States Code, Section 668(a).

MARK F. GREEN
United States Attorney



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AFFIDAVIT

Affiant, Brian Gourgues, Special Agent, United States Fish and Wildlife Services, do state as follows:

1. On April 1, 2012, Oklahoma Department of Wildlife Conservation (ODWC) Game Warden (GW) Cody Youngblood was notified by an individual who explained he had discovered a large bird carcass stuffed in a feed sack underneath an outbuilding on a rental property he owned. The property owner, identified as Dustin Denton, explained that as he was cleaning the previously identified rental property, located at Route 1 Box 39, Westville, Oklahoma, Adair County (35 58'18.90N / 94 31'51.00W), he discovered the bird carcass. Shortly after receiving the call, Denton GW Youngblood traveled to the residence located in rural Adair County, Oklahoma.
2. When GW Youngblood arrived at the residence, Denton explained that the previous tenants had recently moved out of the property and he was cleaning it in preparation of a new tenant moving in. Denton went on to explain that during his cleaning of the property/residence, which has a detached garage, smoke house and an outbuilding located approximately thirty (30) feet immediately behind the home, he smelled an odor and noticed a "bag" with bugs flying around it underneath an outbuilding. As Denton attempted to remove the "bag", which was stuffed in a hole that was wallowed out underneath the south side of the previously identified outbuilding, he observed maggots in/around the bag. Denton explained to GW Youngblood that as he opened the bag, which he identified as a feed sack, he observed a large bird carcass inside. Denton stated to GW Youngblood that he immediately identified the bird as a Bald Eagle as its large size, white tail and large talons were clearly identifiable and recognizable.

3. GW Youngblood began to inquire as to the identity/whereabouts of the previous residents of the rental property. Denton explained that he had leased the home to a female subject identified as Jenifer ROOTS in September of 2011. Denton stated that ROOTS contacted him in March 2012 explaining she would be moving out of the rental house as she could no longer afford the monthly rental payments. ROOTS stated to Denton in late March 2012 that she would be moving in with her mother who resides at 21411 E510 Road, Colcord, Oklahoma.
4. Denton went on to explain that he was aware that a male subject also lived at the residence with ROOTS and her two (2) daughters. Denton stated that the unidentified male subject was not listed on the rental lease and he did not know who he was, only that ROOTS spoke of him as her boyfriend. Denton went on to tell GW Youngblood that ROOTS and her boyfriend had a large number of ducks, geese, turkeys and rabbits on the property.
5. On the afternoon of April 1, 2012, GW Youngblood traveled to the Westville Oklahoma Police Department (PD) to get evidence collection supplies to assist in collecting the bald eagle carcass. While at the Westville PD, GW Youngblood asked Adair County Sheriff's Office Investigator Jeremy Alverson if he had any information about the identity of the male subject living at the previously identified rental property occupied by ROOTS. Investigator Alverson did not immediately remember the name of the male subject living with ROOTS, but did remember an investigation into a domestic dispute that occurred in December 2011 at the rental property at Route 1 Box 39, Westville, Oklahoma.
6. An investigation by GW Youngblood revealed that on December 15, 2011, a petition for a protective order was filed by Jennifer Elaine ROOTS with the defendant named as

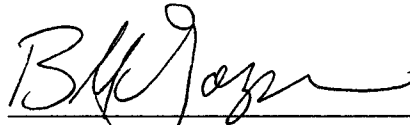
Charles Lee MCFADDEN. On December 19, 2011, a protective order was documented as served by the Oklahoma State Courts Network (OSCN).

7. GW Youngblood presented the information he uncovered from OSCN to Investigator Alverson in early April 2012. Investigator Alverson did remember law enforcement officers responding to a domestic dispute at Route 1 Box 39, Westville, Oklahoma, several months prior. Investigator Alverson stated that MCFADDEN and ROOTS were involved in some type of domestic dispute at the aforementioned address, but no arrests were made.
8. On April 7, 2012, U.S. Fish and Wildlife Service (FWS) Special Agent (SA) Brian Gourgues was transferred the Bald Eagle carcass from ODWC Captain Joe Adair.
9. On April 9, 2012, FWS Special Agent (SA) Brian Gourgues submitted a bird carcass to the FWS Forensics Laboratory.
10. On May 16, 2012, SA Gourgues received the Veterinary Pathology Examination Final Report from the FWS Laboratory. The results of the analysis identified the remains of the bird carcasses as a Bald Eagle (*Haliaeetus leucocephalus*). The FWS Laboratory found the Bald Eagle carcass's proximate cause of death to be "GUNSHOT – SHOTGUN".
11. On April 6, 2012, FWS SAs Gourgues and James Markley accompanied by ODWC GW Youngblood traveled to a residence located in Colcord, Oklahoma, in an attempt to locate and interview Jennifer ROOTS. ROOTS was listed as the lessee of the residence located at Route 1 Box 39, Westville, Oklahoma, where the illegally taken Bald Eagle was recovered.

12. ROOTS admitted to Investigators sometime in late November or early December 2011 she observed Charles MCFADDEN shoot a "large bird" at the residence she was leasing located at Route 1 Box 39, Westville, Oklahoma. ROOTS explained that MCFADDEN, who was her boyfriend at the time, kept a large number of ducks and geese as pets on the property. ROOTS stated that MCFADDEN did not like raptors as they routinely preyed on his ducks, geese and other birds.
13. During the interview, ROOTS described her past history with MCFADDEN and the recent breakup the two had gone through. ROOTS provided to Investigators information on where MCFADDEN was currently working and where she believed he may be living.
14. On April 23, 2012, FWS SAs Gourgues and Markley accompanied by ODWC GW Youngblood traveled to a residence located in rural eastern Oklahoma approximately 2 miles west of Westville, Oklahoma. Investigators had previously identified a Ford F150 truck (OK 756 HPV) parked at the residence as being registered to Charles Lee MCFADDEN of Route 1 Box 39, Westville, Oklahoma 74965.
15. Investigators identified a white male subject at the residence as Charles MCFADDEN. Investigators interviewed MCFADDEN, and he admitted to shooting and killing a Bald Eagle and later putting it in a feed sack underneath an outbuilding on the property located at Route 1 Box 39, Westville, Oklahoma.
16. During the interview, MCFADDEN stated to SAs that he was aware the bird he shot was a Bald Eagle before he shot and killed the bird.

Affiant knows it is a violation of 16 U.S.C. § 668(a) for an individual to knowingly, or with wanton disregard for the consequences of his act take, possess, sell, purchase, barter, offer to sell, purchase or barter, transport, export or import, at any time or in any manner

any bald eagle commonly known as the American eagle or any golden eagle, alive or dead, or any part, nest, or egg thereof of the foregoing eagles. Affiant believes that Charles Lee McFadden has violated Title 16, United States Code, Section 668(a).

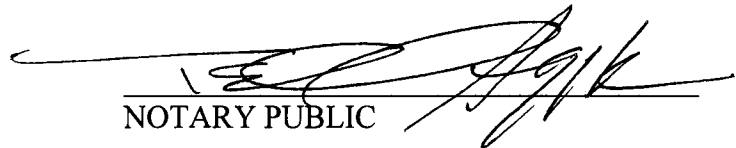


BRIAN GOURGUES
Special Agent, US Fish & Wildlife Service

STATE OF OKLAHOMA)
) ss
COUNTY OF MUSKOGEE)

Be it remembered, that on this 18 day of September, 2012, before me a notary public in and for said State, personally appeared Brian Gourgues to me known to be the identical person described in and who executed the within and foregoing instrument and acknowledged to me that she executed the same as her free and voluntary act and deed for the uses and purposes therein set forth.

In witness whereof, I have hereunto set my official signature and affixed my notarial seal, the day and year first above written.


NOTARY PUBLIC

My Commission Expires:

8-29-2016

